



UNITED STATES PATENT AND TRADEMARK OFFICE

25 JUN. 2010

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Timothy H. Van Dyke
390 No. Orange Avenue
Suite 2500
Orlando FL 32801

In re Application of: DANIELL, Henry :
U.S. Application No.: 10/520,104 : DECISION ON RENEWED
PCT Application No.: PCT/US03/20869 : PETITION UNDER 37 CFR
International Filing Date: 02 July 2003 : 1.78(a)(3) AND (a)(6)
Priority Date: 03 July 2002 :
Attorney Docket No.: 10669-040 :
For: EXPRESION OF HUMAN :
INTERFERON IN TRANSGENIC :
CHLOROPLASTS :

In a decision mailed herein on 05 May 2010, applicant's original petition under 37 CFR 1.78(a)(3) and (a)(6) was dismissed for failure to satisfy all the requirements of a grantable petition. Specifically, the amendment filed with the original petition included an incorrect reference with respect to one of the provisional applications to which priority was claimed.

On 09 June 2010, applicant filed the "Renewed Petition For Unintentionally Delayed Entry Of A Priority Claim" considered herein. The renewed petition was accompanied by a supplemental amendment to the first paragraph of the specification that corrects the error in the previous amendment and includes acceptable references with respect to all the prior-filed applications for which applicant is seeking to add delayed benefit claims (i.e., PCT/US01/06288, U.S. non-provisional applications 09/807,742 and 09/079,640, and U.S. provisional applications 60/185,987, 60/263,473, and 60/263,668). The supplemental amendment satisfies the final outstanding requirement for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6).

Based on the above, the renewed petition is appropriately **GRANTED**

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and (a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(1), (a)(2), (a)(5), and (a)(6) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international, non-provisional, and provisional applications, accompanies this decision on petition.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1638 for further examination and for appropriate consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed international and provisional applications.



Boris Milef
Senior Legal Examiner
Office Of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt